IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5473 OF 2002

Krishna @ Kisan Balu Chavan,)
Police Constable,)
Turbhe Police Line No.1,)
Room No.8, Near Turbhe)
Police Station,)
New Bombay)...Petitioner

Versus

1. The State of Maharashtra,)
Through)
The Commissioner of Police)
Office of the Commissioner)
of Police, Thane.)
)
2. The Deputy Commissioner of)
Police, Office of the)
Deputy Commissioner of Police,)
Thane.)...Respondents

.....

Shri. C.S. Joshi, counsel for the Petitioner

Shri. S.K. Chincholikar, A.G.P. for Respondents.

.....

CORAM: DR. S. RADHAKRISHNAN AND
SMT. V.K. TAHILRAMANI, JJ.

DATED: 24TH NOVEMBER, 2005

ORAL JUDGMENT (PER DR. S. RADHAKRISHNAN, J.):-

1. Heard the learned counsel for the Petitioner and the learned A.G.P. for Respondents.

2. By this petition, the Petitioner is challenging the order dated 11.01.2000 passed by the Maharashtra Administrative Tribunal, Bench Mumbai, (hereinafter referred to as "the Tribunal" for the sake of brevity), declining to interfere with regard to the application filed before it, by the Petitioner.

3. The brief facts of the case are that the Petitioner was appointed as Constable on 06.03.1972 and he was temporarily officiating as Hawaldar from 25.08.1984 but within a period of three months, he was again posted back as Constable as he was found unsuitable for officiating as a Hawaldar. Thereafter, in the year 1987, the Petitioner was suspended from his services as he was involved in a Criminal Case. Finally the said Criminal case is resulted in an acquittal of the Petitioner. Subsequent thereto on 10.05.1990, the Petitioner was reinstated in service and his pay was fixed at Rs.1,280/-.

4. The basic grievance of the Petitioner is that initially he was appointed as Constable and subsequently promoted as Hawaldar, therefore, he

should be given higher pay scale. Dealing with this issue, the Tribunal perused the record as well as the affidavits in reply filed by the Respondents, which were filed before it. We have also perused the same. After going through the said records, which indicate that the Petitioner was repeatedly found to be mentally not sound and he was found incapable of doing any work. The Petitioner was also on leave for a long period i.e. from 14.8.1992 to 07.09.1993. Even in the year 1997, it is remarked that the Petitioner was undergoing treatment at the mental hospital at Thane. In the year 1998 the remark shows that the Petitioner was not fit to work in the Crime Department and he was shifted outside the same. Having regard to the aforesaid facts and circumstances, the Tribunal found no merit in the application filed before it by the Petitioner seeking promotion as well as pay fixation. As far as the pay fixation is concerned, the Respondent in their affidavit-in-reply, filed before the Tribunal, has stated that the Pay-scale of the Petitioner was properly fixed. Rule 39 of Maharashtra Civil Services (Pay) Rules, 1981 contemplates that during the suspension period i.e. between 18.08.1987 to 16.04.1990, only the pay should be protected and as

such no increment was given during that period as per that rule. The Respondent in their affidavit in reply filed before the Tribunal has further stated that the pay scale has been correctly fixed at Rs.1280/- as per that rule. As far as the other relief regarding the promotion right from 1984-1998, we have perused the confidential records which are known as "Sheet Remarks" indicate that the Petitioner was not found suitable for giving promotion. Having regard to the aforesaid facts and circumstances, the Tribunal has not interfered with the application and dismissed the same.

5. We do not find any illegality or perversity in the said order of the Tribunal for the aforesaid reasons. Hence, writ petition is devoid of merits, hence Rule stands discharged.

*****